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6 **MARIA BARAJAS, an Individual**

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

SEP 19 2011

John A. Clarke, Executive Officer/Clerk
By I. Quincy, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 MARIA BARAJAS, an Individual,
12 Plaintiff,
13 vs.
14 CITY OF SAN FERNANDO, a public
entity; MARCO ANTHONY RUELAS, an
15 Individual; ALVARO CASTELLON, an
Individual; JEFFREY ELEY, an
16 Individual; and DOES 1 through 100,
inclusive,
17 Defendants.
18

CASE NO.: BC459915

[Assigned to Hon. Michael C. Solner,
in Dept. 39, for all purposes]

**FIRST AMENDED COMPLAINT
FOR DAMAGES:**

1. NEGLIGENCE
 2. INTENTIONAL INFLICTION
OF EMOTIONAL DISTRESS
 3. VIOLATION OF CIVIL
RIGHTS - 42 U.S.C. § 1983
 4. VIOLATION OF CIVIL
RIGHTS (MONELL)
 5. VIOLATION OF PLAINTIFF'S
STATE CIVIL RIGHTS -
CALIFORNIA CIVIL CODE
§52.1
 6. VIOLATION OF PLAINTIFF'S
STATE STATUTORY RIGHTS
- CALIFORNIA CIVIL CODE
§51.7
- * Request for Punitive Damages
* Request for Jury Trial

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1 Plaintiff, MARIA BARAJAS, an Individual, alleges causes of action against
2 defendants, as follows: CITY OF SAN FERNANDO, a public entity, MARCO
3 ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY
4 ELEY, an Individual, and DOES 1 through 100, inclusive, and each of them.

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6 **COMMON ALLEGATIONS - JURISDICTION**

- 7 1. At all relevant times, plaintiff MARIA BARAJAS, an Individual, (hereinafter referred
8 to as "plaintiff"), was, and currently is, a resident of the County of Los Angeles, State
9 of California.
- 10 2. Defendant, CITY OF SAN FERNANDO, is, and at all times herein mentioned was,
11 a governmental entity, duly organized and existing under the laws of the State of
12 California and situated in the County of Los Angeles.
- 13 3. At all relevant times, defendant, MARCO ANTHONY RUELAS, an Individual, was,
14 and currently is, a resident of the County of Los Angeles, State of California. At all
15 times herein mentioned, MARCO ANTHONY RUELAS was a police officer
16 employed by the City of San Fernando Police Department and in doing the acts
17 described herein acted within the course and scope of his employment.
- 18 4. At all relevant times, defendant, ALVARO CASTELLON, an Individual, was, and
19 currently is, a resident of the County of Los Angeles, State of California. At all times
20 herein mentioned, ALVARO CASTELLON was a police officer employed by the
21 City of San Fernando Police Department and in doing the acts described herein acted
22 within the course and scope of his employment.
- 23 5. At all relevant times, defendant, JEFFREY ELEY, an Individual, was, and currently
24 is, a resident of the County of Los Angeles, State of California. At all times herein
25 mentioned, JEFFREY ELEY was a police officer employed by the City of San
26 Fernando Police Department and in doing the acts described herein acted within the
27 course and scope of his employment.

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1 6. On March 1, 2011, a Claim for Damages to Person or Property was filed with the City
2 of San Fernando. That claim was returned in part and rejected in part, within 30 days,
3 by Carl Warren & Company acting in its capacity as claim administrators for the City
4 of San Fernando.

5 7. At all relevant times, the true names and/or capacities, whether individual,
6 partnership, proprietorship, corporate, associate or otherwise, of defendants, DOES
7 1 through 100, inclusive, and each of them, are currently unknown to plaintiff, who
8 therefore sues said defendants by such fictitious names. Plaintiff is informed and
9 believes, and thereupon alleges, that each of the defendants fictitiously named herein
10 as a DOE is legally responsible in some manner for the events and happenings
11 hereinafter referred to, and thereby caused, and continue to cause, the injuries and
12 damages to plaintiff as hereinafter alleged. Plaintiff will seek leave of Court to amend
13 this Complaint to insert the true names, and/or capacities, of said fictitiously named
14 defendants when the same have been ascertained.

15 8. At all relevant times, defendants named herein, and each of them, were the agents,
16 representatives, servants, employees, employers, and/or joint venturers, of each and
17 all of the remaining defendants, and the acts described hereinafter occurred while said
18 defendants were acting within the course and scope of said agency, representation,
19 employment, servitude, and/or venture.

20 9. All of the facts, acts, events and circumstances herein mentioned and described
21 occurred in the County of Los Angeles, State of California.

22 **COMMON ALLEGATIONS - EMPLOYMENT RELATIONSHIP**

23 10. At all relevant times, defendants, CITY OF SAN FERNANDO, a public entity,
24 MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an
25 Individual, JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and
26 each of them, were employers in the State of California subject to the provisions as
27 set forth fully in California's Govt. Code § 12940, et seq. [sometimes referred to as
28 "defendant employers."] Specifically, such defendant employers regularly employed

1 one or more persons, are not religious associations or corporations, and are not
2 organized for private profit, thus bringing said defendants within the provisions of
3 California Govt. Code §§12940(a), (h), (i) and (k), which codes prohibit employers
4 and/or their agents from discriminating, harassing, and/or retaliating against their
5 employees on the basis of sex.

6 11. Plaintiff is a female, and, as an employee of defendant employers, is entitled to
7 protection under the provisions as set forth fully in California's Govt. Code § 12940,
8 et seq. At all relevant times, plaintiff and plaintiff's work on behalf of said
9 defendants, was and is supervised, directed, and managed, at least in part, by
10 individual defendants, CITY OF SAN FERNANDO, a public entity, MARCO
11 ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual,
12 JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and plaintiff
13 was working in the course and scope of her employment with defendant employers,
14 and each of them.

15 12. At all relevant times, individual defendants, MARCO ANTHONY RUELAS, an
16 Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an Individual,
17 and DOES 1 through 100, inclusive, were employees, agents, and/or representatives
18 of defendant employers, and each of them. Defendants, MARCO ANTHONY
19 RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY,
20 an Individual, and DOES 1 through 100, inclusive, were either themselves managers
21 or were hired by, trained by, supervised by, managed by, and directed by defendant
22 employers, and each of them, and such defendants were working in the course and
23 scope of their employment with, their agency with, and/or their representation of, such
24 defendant employers, and each of them. These individual employees or agents,
25 MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an
26 Individual, JEFFREY ELEY, an Individual, DOES 1 through 100, inclusive, were
27 authorized by the defendant employers, and each of them, to supervise, direct, and

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- 1 manage, at least in part, plaintiff and plaintiff's work on behalf of defendant
2 employers, and each of them.
- 3 13. From at least 2008, and continuously since that time, plaintiff's supervisor, defendant,
4 MARCO ANTHONY RUELAS, an Individual, while on-duty as employed by or
5 acting on behalf of such defendant employers, sexually harassed and discriminated
6 against plaintiff. Defendants, CITY OF SAN FERNANDO, a public entity, MARCO
7 ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual,
8 JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, had full
9 knowledge of defendant, MARCO ANTHONY RUELAS' discriminatory actions but
10 failed and refused to take prompt and/or adequate action to investigate and/or to cure
11 the workplace misconduct.
- 12 14. The discriminatory and harassing conduct of plaintiff's supervisor and defendant
13 employer was in an effort to gain sexual favors, insult, humiliate, embarrass,
14 intimidate, and discriminate against plaintiff because of her gender, (female).
- 15 15. On or about June 24, 2009, plaintiff was wrongfully discharged based on untrue and
16 unsubstantiated allegations of employee misconduct.
- 17 16. At all relevant times, employees and/or agents of the defendant employers, including,
18 but not limited to MARCO ANTHONY RUELAS, routinely and pervasively engaged
19 in workplace misconduct amounting to unlawful sexual harassment and
20 discrimination. Such conduct included, but was not limited to, engaging in conduct
21 with sexual overtones directed at the plaintiff in the workplace. The offensive
22 conduct included, but was not limited to, advances or solicitations of a sexual nature,
23 inappropriate physical contacts or touchings, and efforts of defendant employers and
24 some of defendants' employees and/or agents to "cover-up" such misconduct of other
25 of defendants' employees/agents.
- 26 17. Defendant employers and their employees and/or agents took all steps possible to
27 silence plaintiff's complaints. By this conduct, defendant employers ratified and
28 endorsed the conduct of defendant employers' employees and agents.

- 1 18. On March 10, 2011, plaintiff filed charges of sexual harassment, discrimination, and
2 wrongful termination with the California Department of Fair Employment and
3 Housing, (DFEH). Plaintiff's claims specifically named defendants, CITY OF SAN
4 FERNANDO, a public entity, MARCO ANTHONY RUELAS, an Individual, and
5 ALVARO CASTELLON, an Individual.
- 6 19. On March 10, 2011, the DFEH issued Notices of Case Closure and Right-to-Sue
7 Notices as they relate to plaintiff's charges against all those named in the DFEH
8 claims.
- 9 20. Prior to plaintiff's filing of her DFEH claims and this instant complaint, defendants,
10 and each of them, knew or should have known of their own acts and omissions, and
11 of the relationship between said conduct of act or omission and the resulting harm
12 incurred by plaintiff. As a result of the acts and omissions of defendants, and each
13 of them, and of defendants' employees and/or agents, plaintiff suffered severe
14 emotional distress and economic harm, as more fully described herein.

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16 **COMMON ALLEGATIONS - SPECIFIC FACTS**

- 17 21. The damages and injury alleged herein occurred in various parts of the City of San
18 Fernando and City of Los Angeles, including, but not limited to, the interior of the
19 San Fernando Police Department, in private vehicles, in City of San Fernando Police
20 Department issued vehicles, and at the Comfort Inn, located at 20157 Ventura
21 Boulevard, Woodland Hills, California 91364.
- 22 22. Plaintiff (at 20 years of age) was a college student and part-time employee of the City
23 of San Fernando in the Police Cadet program. Plaintiff since a young age has wanted
24 to eventually become a police officer and sought this employment to further that goal.
25 In 2008, defendant, MARCO ANTHONY REULAS (then Lt. Marco Anthony Ruelas)
26 as a commanding officer began improperly communicating with plaintiff in person,
27 through telephone calls, in text messages and with emails. These improper
28 communications became increasingly sexual in nature and included defendant,

1 MARCO ANTHONY REULAS, giving (and sending by email) photos of himself to
2 plaintiff and directives to plaintiff to send picture of herself to him. In 2009,
3 defendant, MARCO ANTHONY REULAS by using his commanding authority and
4 position of power as a lieutenant and plaintiff's supervisor convinced plaintiff that it
5 would be in her best professional interest to have a sexual relationship with
6 defendant, MARCO ANTHONY REULAS. Plaintiff had never had sex before. In
7 the beginning of 2009, defendant, MARCO ANTHONY REULAS, had sexual
8 contact with the plaintiff in his City-issued vehicle. Thereafter, in March 2009,
9 defendant, MARCO ANTHONY REULAS, had sexual intercourse with plaintiff (for
10 her first time) at a hotel in Woodland Hills, California - specifically the Comfort Inn,
11 located at 20157 Ventura Boulevard, Woodland Hills, California 91364. After having
12 sexual intercourse, the email and text message communications became increasingly
13 explicit by defendant, MARCO ANTHONY REULAS, to plaintiff.

14 23. In June 2009, defendants, CITY OF SAN FERNANDO, a public entity, MARCO
15 ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual,
16 JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, within the
17 police department conspired to terminate plaintiff from the Cadet program by falsely
18 creating cause to do so. No cause at all existed to justify plaintiff's termination. The
19 conspiracy was carried through, and plaintiff was terminated from employment.

20 24. After plaintiff was terminated from the Cadet program, she had continued contact
21 with defendant, MARCO ANTHONY REULAS, for the remainder of the 2009
22 calendar year. The continued communications between plaintiff and defendant,
23 MARCO ANTHONY REULAS, covered a variety of topics including their sexual
24 relationship, the need to not reveal the actions of defendant, MARCO ANTHONY
25 REULAS, and how to best deal with plaintiff's wrongful termination from
26 employment with defendant, CITY OF SAN FERNANDO. Such continued contact
27 included a sexual encounter on October 31, 2009. During this time frame, defendant,
28 MARCO ANTHONY REULAS, continued to communicate with plaintiff through

1 texts and emails reminding plaintiff that she "could not" reveal the nature of her
2 relationship for the benefit of the City and himself, personally and professionally. In
3 these continued communications, defendant, MARCO ANTHONY REULAS, gave
4 plaintiff advice on how to deal with her termination from the Cadet program with
5 future employers. The communications between defendant, MARCO ANTHONY
6 REULAS, and plaintiff went on until February, 2010. These communications were
7 always accompanied by overtones imparting fear and intimidation by virtue of
8 defendant, MARCO ANTHONY REULAS' position as Lieutenant of the defendant,
9 CITY OF SAN FERNANDO Police Department.

10 25. The discriminatory and harassing acts, which constituted a continuing violation, began
11 in 2008 and continued through November, 2010. Between February, 2010, (plaintiff's
12 last communication with defendant, MARCO ANTHONY REULAS), and November
13 5, 2010, plaintiff received repeated communications from officers in the police
14 department, including, but not limited to, defendant, ALVARO CASTELLON,
15 directing plaintiff that she should not reveal (nor even threaten to reveal) the nature
16 of the relationship that she had with defendant, MARCO ANTHONY REULAS, for
17 the benefit of defendants, CITY OF SAN FERNANDO, a public entity, MARCO
18 ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual,
19 JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and each of
20 them. In August, 2010, plaintiff wished to attend the ceremony wherein defendant,
21 MARCO ANTHONY RUELAS, was sworn-in as Chief of Police. Specific officers
22 within the police department, including, but not limited to, defendant, ALVARO
23 CASTELLON, at the behest of defendant, MARCO ANTHONY RUELAS, for the
24 benefit all defendants, instructed plaintiff that she was not to attend the public
25 ceremony. Having many friends within the police department and desiring to attend
26 the ceremony which, was open to the public, plaintiff did attend the ceremony.
27 However, plaintiff was required to be escorted by a uniformed officer (defendant,
28 ALVARO CASTELLON) in and out of the proceedings all for the benefit the

1 defendants. Plaintiff was threatened that she might "disappear" if she brought to light
2 any of the events or communications between herself and defendant, MARCO
3 ANTHONY RUELAS. The last communication came on or about November 5, 2010,
4 when defendant, ALVARO CASTELLON, informed plaintiff that it would be "evil"
5 of her to reveal the relationship she had with defendant, MARCO ANTHONY
6 RUELAS. Defendant, ALVARO CASTELLON, went on to say that the police
7 department was not functioning correctly because everyone was stressed with the idea
8 that the relationship would be revealed. At all times since June, 2009, plaintiff has
9 been intimidated by defendant CITY OF SAN FERNANDO police that if she
10 revealed the relationship she would be harmed. This harassment, intimidation, fear,
11 and threats continued to occur as a continuing violation from the time she was
12 employed as a Cadet through November, 2010. This harassment, intimidation, fear,
13 and threats were so significant that plaintiff retained an attorney in November, 2010
14 to instruct defendant, MARCO ANTHONY RUELAS (then Chief of Police Ruelas),
15 to cease and desist (either himself or his subordinates) from contacting plaintiff in any
16 fashion.

- 17 26. Defendant, MARCO ANTHONY RUELAS, was a Lieutenant, and then became
18 Chief of Police for defendant, CITY OF SAN FERNANDO, during all relevant times.
19 All other actors involved in keeping plaintiff quiet were police officers in the San
20 Fernando Police Department. As such, their actions done under color of authority as
21 police officers were, therefore, in fact the actions of defendant, CITY OF SAN
22 FERNANDO, and done for the express benefit of defendant, CITY OF SAN
23 FERNANDO. Employers are responsible for the actions of its employees when such
24 actions are taken in the course and scope of their employment. Therefore, the
25 defendant, CITY OF SAN FERNANDO, is responsible for the actions of defendant,
26 MARCO ANTHONY RUELAS, and each and every other officer that has been
27 involved in this incident.
28

1 27. Plaintiff has suffered economic damage because her departure from employment
2 appears as a termination rather than a voluntary resignation. Defendant, MARCO
3 ANTHONY RUELAS, assured plaintiff that if she left the police department as he
4 requested, defendant, CITY OF SAN FERNANDO'S Police Department would tell
5 future prospective employers that she resigned. However, this was not done and her
6 records show that she was terminated. Plaintiff has been unable to find similar part
7 time work in other police departments. If plaintiff's official reason for leaving
8 defendant, CITY OF SAN FERNANDO'S Police Department remains as is, she has
9 been effectively "blacklisted" for any and all future law enforcement positions. The
10 exact value of her economic damages will be proven at the time of trial.

11 28. Plaintiff also suffered non-economic or general damages due to the events described
12 herein. Such damages include significant and severe prolonged emotional distress.
13 Such distress has caused anxiety problems and depression. Claimant also suffered
14 from physical pain as she had never had sexual intercourse prior to doing so with
15 defendant, MARCO ANTHONY RUELAS. Under these circumstances, plaintiff's
16 injuries both physical and psychological, are irreparable.

17 **COMMON ALLEGATIONS - CIVIL RIGHTS VIOLATIONS**

18 29. In an effort to clarify the pleadings in this case, plaintiff MARIA BARAJAS
19 specifically alleges that from November 2010, and before, defendants and each of
20 them engaged in conduct that caused plaintiff to be deprived of her constitutional
21 rights to live freely without fear and intimidation of those in authority, specifically
22 the defendants herein.

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24 30. Following the termination of plaintiff's employment, defendants and each of them
25 systematically dealt with plaintiff in a way that caused her great fear and intimidation
26 from the defendants and each of them. Plaintiff was continuously contacted by
27 defendants and each of them in effort to keep her silenced regarding the facts of her
28 sexual encounters with then Chief of Police, defendant MARCO ANTHONY
RUELAS.

- 1 31. Plaintiff was afraid for her own safety as a resident of the City of San Fernando. The
2 defendants each of them knew who she was, what she looked like and where she
3 lived. At times, defendants and each of them would pretend to be helping her so she
4 could gain employment. At other times, defendants and each of them would threaten
5 plaintiff with bodily harm if she were to ever tell about the relationship she had had
6 with Chief of Police, defendant MARCO ANTHONY RUELAS.
- 7 32. In November, 2010, plaintiff retained a lawyer to instruct defendants and each of them
8 to cease their continuing harassing, intimidation and inciting fear in her own well-
9 being. No further communications occurred after November 2010.
- 10 33. Each communication, threat and act of intimidation was conducted between
11 November 2010 and December 2008 while she was still employed by San Fernando
12 Police Department. Each violation of the plaintiff's civil rights was done by and
13 behalf of the other defendants. Anything done by defendant MARCO ANTHONY
14 RUEALAS was for the express benefit of protecting himself and defendant CITY OF
15 SAN FERNANDO. Every action by defendant ALVARO CASTELLON was done
16 to violate plaintiff MARIA BARAJAS' civil rights and protect himself and
17 defendants MARCO ANTHONY RUELAS and ALVARO CASTELLON.
- 18 34. Plaintiff's civil rights as a citizen of defendant CITY OF SAN FERNANDO are
19 distinct and apart from her former employment rights which were also violated, but
20 which were not allowed to proceed herein due to statute of limitations issues as found
21 by the Court. The violations of her civil rights occurred while originally employed,
22 and continued thereafter until November 2010 when an attorney on behalf of Plaintiff
23 wrote a letter informing the defendant CITY OF SAN FERNANDO of the
24 defendants', and each of theirs', inappropriate behavior which caused plaintiff's civil
25 rights to be continually violated.
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1 ALLEGATIONS REGARDING RATIFICATION BY DEFENDANT,
2 CITY OF SAN FERNANDO OF CO-DEFENDANTS' TORTIOUS
3 ACTIONS.

4 35. When the allegations that form the basis of this lawsuit originally came to light,
5 defendant CITY OF SAN FERNANDO placed defendant MARCO ANTHONY
6 RUELAS on administrative leave subject to an investigation into the allegations. The
7 investigation went on for more than six months. The investigation included an at
8 length interview of the plaintiff submitted to voluntarily. On September 6, 2011 the
9 defendant CITY OF SAN FERNANDO, by and through its City Council placed
10 defendant MARCO ANTHONY RUELAS back on full duty as Chief of the San
11 Fernando Police Department. This action was taken in closed session and reported
12 on thereafter. This action was taken with the full knowledge of the allegations set
13 forth against MARCO ANTHONY RUELAS in this First Amended Complaint.
14 Moreover, this action was taken after discovery commenced in this lawsuit and
15 defendant CITY OF SAN FERNANDO was provided all the emails, text messages
16 and photos exchanged between plaintiff and defendant MARCO ANTHONY
17 RUELAS, and text messages between plaintiff and defendant ALVARO
18 CASTELLON. The only conclusion that can be drawn from placing defendant
19 MARCO ANTHONY RUELAS back into his position as Chief of Police is that the
20 City Council fully approves, authorizes and ratifies the wrongdoing done by defendant
21 MARCO ANTHONY RUELAS as alleged by plaintiff. There was no punishment
22 imposed. No ruling of suspension. No sensitivity training ordered. There were no
23 repercussions for his actions whatsoever. Defendant CITY OF SAN FERNANDO's
24 actions here are a tacit admission that it is acceptable and approved for their Chief of
25 Police to do all of the things that defendant MARCO ANTHONY RUELAS is alleged
26 to have done.

27 36. The action taken as described in the preceding paragraph is an act of ratification of
28 defendant MARCO ANTHONY RUELAS' actions that are at issue in this First

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1 Amended Complaint. Having been provided access to the evidence of this case, the
2 City Council still voted to place defendant back in his position as Chief of Police.
3 This action by defendant CITY OF SAN FERNANDO is an affirmative decision to
4 approve and ratify the actions of its employees, specifically defendant MARCO
5 ANTHONY RUELAS.

- 6 37. Pursuant to California Civil Code § 2339, defendant CITY OF SAN FERNANDO is
7 responsible for the wrongs of defendant MARCO ANTHONY RUELAS specifically
8 because defendant's wrongs were authorized and ratified by defendant CITY OF SAN
9 FERNANDO. Nothing in this paragraph, nor in the preceding two paragraphs, alter
10 any agency allegations made elsewhere in this First Amended Complaint. Moreover,
11 there are other times of ratification that have occurred that are not specifically alleged
12 here in this complaint. Nothing here diminishes these other allegations of ratification.
13 The purpose of highlighting this recent ratification is to demonstrate how ultimately
14 defendant MARCO ANTHONY RUELAS' actions belong to the CITY of SAN
15 FERNANDO and have been confirmed by the City Council to be one and the same.
16

17 **FIRST CAUSE OF ACTION**

18 **FOR NEGLIGENCE AGAINST DEFENDANTS, MARCO ANTHONY**
19 **RUELAS, AN INDIVIDUAL, ALVARO CASTELLON, AN INDIVIDUAL,**
20 **JEFFREY ELEY, AN INDIVIDUAL, AND DOES 1 THROUGH 100,**
21 **INCLUSIVE, AND EACH OF THEM.**

- 22 38. Plaintiff repleads and repeats all of the allegations and statements contained in
23 paragraphs 1 through 37, inclusive, of this complaint, and incorporate them herein by
24 reference, as though set forth in full at this point.
- 25 39. From 2008, and continuing thereafter until November, 2010, defendant employers,
26 and employees and/or agents of defendant employers, including defendants, MARCO
27 ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual,
28 JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and each of
them, owed to plaintiff a duty to use reasonable care with respect to the manner in

which they conducted themselves in their dealings with plaintiff.

40. At all relevant times, defendant MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and each of them, breached the aforementioned duty of care owed to plaintiff by negligent acts and omissions, including, but not limited to:

- (A) Failing to exercise appropriate care in choosing to hire and retain certain individuals where defendant employers were on notice of such individuals' improper conduct in the workplace,
- (B) Failing to properly train defendants' employees and/or agents,
- (C) Failing to properly disseminate the anti-discrimination, anti-harassment, and anti-retaliation policy to defendants' employees and/or agents,
- (D) Failing to properly supervise defendants' employees and/or agents,
- (E) Failing to properly investigate plaintiff's complaints,
- (F) Failing to properly discipline and/or terminate defendants' employees and/or agents who breached anti-discrimination and harassment policies and/or laws,
- (G) Endorsing and/or ratifying improper conduct of defendants' employees and/or agents, and,
- (H) Negligently conducting themselves (by act or omission) and/or allowing their agents to conduct themselves, (by act or omission), in such a manner as to repeatedly violate plaintiff's civil rights.

41. Defendant MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and each of them, further breached the aforementioned duty of care owed to plaintiff by negligent conduct of act or omission, such as allowing the above-described verbal and/or physical activities on plaintiff because of plaintiff's gender, thereby placing plaintiff in a state of anxiety and distress for her economic, personal, physical, emotional, and/or psychological well being. Defendant, MARCO ANTHONY RUELAS, protected himself and refused and failed to take any appropriate remedial action.

1 42. As a direct and proximate result of the conduct of MARCO ANTHONY RUELAS,
2 an Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an
3 Individual, and DOES 1 through 100, inclusive, and each of them, and employees
4 and/or agents of defendant employers, and each of them, plaintiff was grievously and
5 permanently injured and hurt in her health, strength and activity, sustaining injuries
6 to her nervous system, all of which said injuries have caused and continue to cause
7 plaintiff great mental and emotional pain and suffering. Plaintiff is informed and
8 believes, and thereupon alleges, that said injuries have and will result in permanent
9 and degenerative disability to plaintiff, all to her general damage in an amount which
10 will be stated according to proof, and which is in excess of the jurisdictional limits of
11 this court.

12 43. As a direct and proximate result of the conduct of defendant employers, and
13 employees and/or agents of defendant employers, and each of them, plaintiff was
14 compelled to and did employ the services of medical professionals and the like to care
15 for and treat her, and did and will continue to incur medical, professional and
16 incidental expenses. Plaintiff is also informed and believes, and thereupon alleges,
17 that by reason of her injuries, plaintiff has and will necessarily incur additional like
18 expenses for an indefinite period of time in the future, the exact amount of which
19 expenses will be stated according to proof.

20 44. As a direct and proximate result of the conduct of defendants, and employees and/or
21 agents of defendant employers, and each of them, plaintiff is informed and believes,
22 and thereupon alleges, that plaintiff has been and will be prevented from attending to
23 her usual occupation, and thereby has and will sustain a loss of earnings and of
24 earning capacity, the exact amount of such losses which are unknown to plaintiff at
25 this time. When said amounts are ascertained, plaintiff will ask leave of Court to
26 amend this complaint and allege said amounts according to proof.

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II.

SECOND CAUSE OF ACTION

FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

AGAINST DEFENDANTS, MARCO ANTHONY RUELAS, AN

INDIVIDUAL, ALVARO CASTELLON, AN INDIVIDUAL, JEFFREY

ELEY, AN INDIVIDUAL, AND DOES 1 THROUGH 100, INCLUSIVE,

AND EACH OF THEM.

45. Plaintiff repleads and repeats all of the allegations and statements contained in paragraphs 1 through 44, inclusive, of this complaint, and incorporates them herein by reference, as though set forth in full at this point.

46. Defendant, MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and each of them, engaged in extremely offensive and malicious, deliberate, and/or intentional acts of harassment, discrimination, humiliation, and intimidation against plaintiff, as fully described herein in the Common Allegations - Specific Facts. Said defendants, and each of them, knew that said conduct would cause or was likely to cause plaintiff to suffer severe emotional distress. As a further direct and proximate result of the aforesaid conduct of defendants, and each of them, plaintiff has suffered, and continues to suffer, severe emotional distress, including, but not limited to, fear, depression, humiliation, embarrassment, mental anguish, and/or profound shock to her nervous system, all to her general damage to be stated according to proof at the trial in this matter.

47. The aforementioned acts of defendants, as described fully herein in the Common Allegations - Specific Facts, constitute intentional infliction of severe emotional distress by said defendants, and/or ratification of same. Said acts were extreme and outrageous, far beyond what would be considered necessary to tolerate in our society. Said acts were committed willfully, intentionally, wantonly, and maliciously, and/or without any probable cause, such that said defendants, and each of them, acted with

1 knowledge that the likelihood of injury to plaintiff was great. Defendants' conduct
2 was done for the purpose of causing plaintiff to suffer humiliation, mental anguish,
3 severe emotional distress. Defendants' conduct was in fact the substantial factor in
4 causing plaintiff to suffer humiliation, mental anguish, severe emotional distress, as
5 well as pecuniary loss, damage, financial stress and injury to plaintiff.

6 48. As a direct and proximate result of the aforesaid conduct of defendants, defendants'
7 employees, supervisors, and/or agents, and each of them, plaintiff was grievously and
8 permanently injured, sustaining injuries to her nervous system, all of which said
9 injuries have caused and continue to cause plaintiff great mental, psychological, and
10 severe emotional pain and suffering. Plaintiff is informed and believes, and
11 thereupon alleges, that said injuries have and will continue to result in permanent and
12 degenerative emotional, mental, and psychological disability to plaintiff, all to her
13 general damage in an amount which will be stated according to proof at the trial in
14 this matter, and which is in excess of the jurisdictional limits of this Court.

15 49. As a direct and proximate result of the aforesaid conduct of defendants, defendants'
16 employees, supervisors, and/or agents, and each of them, plaintiff has and is likely to
17 employ the services of psychological professionals and the like, to care for and treat
18 her, and has and is likely to incur psychological, professional and incidental expenses,
19 and plaintiff is informed and believes, and thereupon alleges, that by reason of her
20 injuries, plaintiff has and will necessarily incur additional like expenses for an
21 indefinite period of time in the future, the exact amount of which expenses will be
22 stated according to proof at the trial in this matter.

23 50. As a direct and proximate result of the aforesaid conduct of defendants, defendants'
24 employees, supervisors, and/or agents, and each of them, plaintiff is informed and
25 believes, and thereupon alleges, that plaintiff, for some indefinite period of time, has
26 and will be prevented from attending to her usual occupation, and thereby has and will
27 sustain a loss of earnings and of earning capacity, the exact amount of such losses are
28 unknown to plaintiff at this time. When said amounts are ascertained, plaintiff will

ask leave of Court to amend this complaint and allege said amounts according to proof at the trial in this matter.

51. Defendants, MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and each of them, defendants' employees, supervisors, and/or agents, and each of them, acted intentionally, wantonly, willfully, maliciously, despicably and with conscious disregard of the rights of plaintiff, as aforementioned in the paragraphs herein, thereby entitling plaintiff to recover punitive damages from said defendants, MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and each of them, in an amount appropriate to punish, and make an example of said defendants, MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive and each of them, pursuant to California Civil Code § 3294.

III.

THIRD CAUSE OF ACTION

FOR VIOLATION OF CIVIL RIGHTS - 42 U.S.C. § 1983 AGAINST DEFENDANTS, CITY OF SAN FERNANDO, A PUBLIC ENTITY, MARCO ANTHONY RUELAS, AN INDIVIDUAL, ALVARO CASTELLON, AN INDIVIDUAL, AND DOES 1 THROUGH 100, INCLUSIVE, AND EACH OF THEM.

52. Plaintiff repleads and incorporates herein, by reference, all of the allegations and statements contained in paragraphs 1 through 51, inclusive.

53. At all relevant times, MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, and DOES 1 through 100, inclusive, and each of them, were acting under color of the law in violating plaintiff's constitutional rights as herein alleged under the Fourth and Fourteen Amendments to the Constitution of the

1 United States. The Fourth and Fourteenth Amendments are made applicable to the
2 States pursuant to 42 U.S.C. § 1983.

3 54. Plaintiff was deprived of rights, privileges, and immunities secured to her by the
4 Constitution of the United States and laws enacted thereunder when defendants
5 harassed, intimidated and threatened plaintiff to not reveal any information regarding
6 the facts as set forth in the Common Allegations - Specific Facts, causing plaintiff
7 severe emotional distress and physical pain.

8 55. Defendants, MARCO ANTHONY RUELAS, an Individual, ALVARO
9 CASTELLON, an Individual, and DOES 1 through 100, inclusive, and each of them,
10 were motivated by bad faith in that defendants had a preference toward harassing
11 plaintiff and did not have an interest in the rights of plaintiff to be free from fear,
12 intimidation and threats of bodily harm or death from the police.

13 56. Plaintiff has a constitutional right to be free from an unreasonable fear, intimidation
14 and threats of bodily harm or death from the police.

15 57. Plaintiff's civil rights were, however, violated by defendants, when defendants
16 unlawfully intimidated and threatened bodily harm or death to plaintiff as set forth in
17 the Common Allegations - Specific Facts and the Common Allegations - Civil Rights
18 Violations.

19 58. Therefore, the individual defendants, and each of them, are liable to plaintiff under
20 42 U.S.C. §1983.

21 59. In acting as alleged herein, defendants, and each of them, caused plaintiff severe
22 physical and emotional injuries, as well as other damages, all in an amount to be
23 determined at the time of trial.

24 60. The individual defendants acted with a conscious disregard of plaintiff's rights
25 conferred upon her by Section 1983, Title 42 of the United States Code, Fourth and
26 Fourteenth Amendments to the United States Constitution and California Civil Code
27 Section 3333, by virtue of unlawfully intimidating and threatening bodily harm or
28

1 death to plaintiff as set forth in the Common Allegations - Specific Facts. Such
2 conduct constitutes malice, oppression and/or fraud under California Civil Code
3 Section 3294, entitling plaintiff to punitive damages against the individual defendants,
4 MARCO ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an
5 Individual, and DOES 1 through 100, inclusive, and each of them, in an amount
6 suitable to punish and set an example of said defendants.

- 7 61. This cause of action is brought under federal law is not subject to the government
8 claims requirement of California State law.

9
10 IV.

11 **FOURTH CAUSE OF ACTION**

12 **FOR VIOLATION OF CIVIL RIGHTS (MONELL) AGAINST**
13 **DEFENDANTS, CITY OF SAN FERNANDO, A PUBLIC ENTITY, MARCO**
14 **ANTHONY RUELAS, AN INDIVIDUAL, ALVARO CASTELLON, AN**
15 **INDIVIDUAL, AND DOES 1 THROUGH 100, INCLUSIVE, AND EACH**
16 **OF THEM.**

- 17 62. Plaintiff repleads and incorporates herein, by reference, all of the allegations and
18 statements contained in paragraphs 1 through 51, inclusive.

- 19 63. Defendants, CITY OF SAN FERNANDO, MARCO ANTHONY RUELAS, AN
20 INDIVIDUAL, ALVARO CASTELLON, AN INDIVIDUAL and DOES 1 through
21 100, and each of them, knowingly, with gross negligence, and in deliberate
22 indifference to the Constitutional rights of citizens, maintain and permit an official
23 policy and custom of permitting the occurrence of the types of wrongs set forth herein
24 above and hereafter.

- 25 64. Plaintiff has a constitutional interest pursuant to the Fourth and Fourteenth
26 Amendments to the United States Constitution to be free from intimidation and threats
27 of police officers. These policies and customs include, but are not limited to, the
28 deliberately indifferent training of its law enforcement officers. These policies and

1 customs also include the express and/or tacit encouragement of intimidating and
2 threatening citizens as well as the sexual harassment of female employees and
3 citizens, the ratification of police misconduct and the failure to conduct adequate
4 investigations of police misconduct such that future violations do not occur.

5 65. Plaintiff is informed and believes, and thereon alleges, that the customs, practices and
6 polices were the moving force behind the violations of plaintiff's rights. Based upon
7 the principles set forth in *Monell v. New York City Dept. Of Social Services*,
8 defendants, CITY OF SAN FERNANDO, MARCO ANTHONY RUELAS, AN
9 INDIVIDUAL, ALVARO CASTELLON, AN INDIVIDUAL and DOES 1 through
10 100, inclusive, and each of them, are liable for all of the injuries sustained by plaintiff
11 as set forth above.

12 66. In acting as alleged herein, defendants, and each of them, caused plaintiff severe
13 physical and emotional injuries, and caused plaintiff other damages, all in an amount
14 to be determined at the time of trial.

15 67. This cause of action is brought under federal law is not subject to the government
16 claims requirement of California State law.

17
18 V.

19 **FIFTH CAUSE OF ACTION**

20 **FOR VIOLATION OF PLAINTIFF'S STATE CIVIL RIGHTS -**
21 **CALIFORNIA CIVIL CODE §52.1 AGAINST DEFENDANTS, CITY OF**
22 **SAN FERNANDO, A PUBLIC ENTITY, MARCO ANTHONY RUELAS, AN**
23 **INDIVIDUAL, ALVARO CASTELLON, AN INDIVIDUAL, JEFFREY**
24 **ELEY, AN INDIVIDUAL, AND DOES 1 THROUGH 100, INCLUSIVE,**
25 **AND EACH OF THEM.**

26 68. Plaintiff repleads and incorporates herein, by reference, all of the allegations and
statements contained in paragraphs 1 through 56, inclusive.

27 69. Defendants' above-described conduct constituted interference and attempted
28 interference, by threats, intimidation and coercion with plaintiff's exercise and

1 enjoyment of rights secured by the Constitution and laws of the United States and the
2 State of California Constitution.

3 70. Under the provisions of California Civil Code §52(b) defendants, MARCO
4 ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual,
5 JEFFREY ELEY, an Individual, and DOES 1 through 100, inclusive, and each of
6 them, are liable for punitive damages for each violation of Civil Code §51.7,
7 reasonable attorney's fees and an additional \$25,000.00.

8
9 VI.

10 SIXTH CAUSE OF ACTION

11 FOR VIOLATION OF PLAINTIFF'S STATE STATUTORY RIGHTS -
12 CALIFORNIA CIVIL CODE §51.7 AGAINST DEFENDANTS, CITY OF
13 SAN FERNANDO, A PUBLIC ENTITY, MARCO ANTHONY RUELAS, AN
14 INDIVIDUAL, ALVARO CASTELLON, AN INDIVIDUAL, AND DOES 1
15 THROUGH 100, INCLUSIVE, AND EACH OF THEM.

16 71. Plaintiff repleads and incorporates herein, by reference, all of the allegations and
17 statements contained in paragraphs 1 through 59, inclusive.

18 72. Plaintiff is informed and believes and thereon alleges that the conduct of defendants,
19 CITY OF SAN FERNANDO, a public entity, MARCO ANTHONY RUELAS, an
20 Individual, ALVARO CASTELLON, an Individual, and DOES 1 through 100,
21 inclusive, and each of them, as described herein, was motivated by prejudice against
22 plaintiff. Plaintiff was readily recognizable as female. In engaging in such conduct,
23 defendants violated plaintiff's rights under California Civil Code §51.7 to be free
24 from violence or intimidation by threat of violence committed against her because of
25 her gender.

26 73. Under the provisions of California Civil Code §52(b) defendants, MARCO
27 ANTHONY RUELAS, an Individual, ALVARO CASTELLON, an Individual, and
28 DOES 1 through 100, inclusive, and each of them, are liable for punitive damages for

1 each violation of Civil Code §51.7, reasonable attorney's fees and an additional
2 \$25,000.00.

3 74. As a proximate result of defendants' wrongful conduct, plaintiff suffered damages as
4 hereinbefore set forth.

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff hereby formally demands a trial by jury on all causes triable to a jury.
7

8 **PRAYER FOR A JUDGMENT OF MONETARY DAMAGES**

9 WHEREFORE, plaintiff prays for a judgment against defendants, and each of them,
10 as follows:

- 11 1. For general damages according to proof, but in a sum in excess of the jurisdiction
12 of this Court;
- 13 2. For special damages according to proof;
- 14 3. For prejudgment interest according to proof, to the extent authorized by law;
- 15 4. For costs of suit incurred herein, to the extent authorized by law;
- 16 5. For attorney's fees to the extent authorized by law;
- 17 6. For punitive damages, pursuant to California Civil Code § 3294, to the extent
18 authorized by law against defendants, MARCO ANTHONY RUELAS, an
19 Individual, ALVARO CASTELLON, an Individual, JEFFREY ELEY, an
20 Individual, and DOES 1 through 100, inclusive, and each of them, in an amount
21 necessary to punish and/or set an example of defendants, MARCO ANTHONY
22 RUELAS, an Individual, ALVARO CASTELLON, an Individual, JEFFREY
23 ELEY, an Individual, and DOES 1 through 100, inclusive, and each of them;
- 24 7. For civil penalty in the amount of \$25,000.00 pursuant to California Civil Code
25 52.1; and
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1 8. For such other and further relief as this Court deems just and proper.
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3 DATED: September 19, 2011
4

BINDER & ASSOCIATES

5 

6 DANIEL S. GLASER, ESQ.
7 Attorneys for Plaintiff,
8 **MARIA BARAJAS, an Individual**
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